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10/672,783

09/26/2003

Walter Dietz

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9681

7278 7590 06/19/2009

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* WALTER DIETZ, DIETHARD KRAUSE,  
and DANIEL SCHNEIDER

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Appeal 2009-003317  
Application 10/672,783  
Technology Center 1700

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Decided:<sup>1</sup> June 19, 2009

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Before EDWARD C. KIMLIN, JEFFREY T. SMITH, and  
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 15-23. We have

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the Decided Date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

jurisdiction under 35 U.S.C. § 6(b).

Claim 15 is illustrative:

15. A method of controlling a laundry treatment machine having laundry disposed therein, the method comprising the steps of:

measuring a load parameter using a measuring device, the load parameter being a function of the laundry disposed in the laundry treatment machine;

setting an upper and a lower limit of a rotational speed of a drum of the laundry treatment machine as a function of the load parameter; and

rotating the drum with a drive motor according to the set upper and lower limits.

The Examiner relies upon the following reference in the rejection of the appealed claims (Ans. 2):

Sakane

5,335,524

Aug. 09, 1994

Appellants' claimed invention is directed to a method of controlling a laundry treatment machine, e.g., a washing machine. A load parameter, which may be a function of the weight of the laundry, is measured and such load parameter is used to set the upper and lower limit of the rotational speed of the machines' drum. The drum is then rotated in accordance with the set upper and lower limits.

Appealed claims 15-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sakane.

We have thoroughly reviewed the respective positions advanced by Appellants and the Examiner. In so doing, we agree with Appellants that Sakane does not describe the claimed method within the meaning of § 102. Accordingly, we will not sustain the Examiner's rejection.

The Examiner maintains that “Sakane teaches determining the load and setting the required speed profile using the determined load as a function of the determined load (column 5, lines 12-61, column 6, lines 4-63, especially lines 45-53)” (Ans. 3, third para.). However, as emphasized by Appellants, “Sakane does not measure a load parameter and set an upper and a lower limit of a rotational speed of a drum as a function of the measured load parameter, as recited in claim 15” (App. Br. 4, first para.). Rather, “Sakane merely describes controlling the drum between predetermined lower and upper rotational speed values  $n_a$  and  $n_b$  of an operation program stored in a control device 27. See Sakane, column 4, lines 39-54” (Reply Br. 3, first para.). As explained by Appellants, the predetermined speed values  $n_a$  and  $n_b$  disclosed by Sakane are themselves predetermined experimentally and within a range calculated using equation (3). While Sakane’s system detects the volume of the clothes, which may be fairly characterized as a load parameter, Appellants correctly point out that the logic control circuit of Sakane “uses the clothes volume to set the duty ratio such that the pre-selected speed values  $n_a$  and  $n_b$  may be attained” (*id.*). We agree with Appellants that nowhere does Sakane disclose or suggest that “the *pre-selected* speed values should be changed or set as a function of the clothes volume” (*id.*).

Since separately argued claims 18 and 23 depend on independent claim 15, their rejection under § 102 must fall as well.

In conclusion, based on the foregoing, we are constrained to reverse the Examiner’s rejection.

Appeal 2009-003317  
Application 10/672,783

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2008).

REVERSED

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